



Trademark Office must accept oppositions under extended deadlines due to pandemic, directs Delhi High Court

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09 June 2022



INDIA

Legal updates: case law analysis and intelligence

- The Trademark Office did not allow the petitioners to file oppositions, applying the usual deadline of four months from the date of publication
- The Delhi High Court found that the office should have accepted the oppositions pursuant to the Supreme Court's directions to extend deadlines
- The court criticised the office's conduct, especially the concealment of the selective acceptance of oppositions during the pandemic

The Delhi High Court has combined and heard four writ petitions filed separately by Dr Reddy's Laboratories, Terrace Pharmaceuticals, Parvesh Kamboj and Soumya Joshi (together 'the petitioners') against the Controller General of Patents, Designs and Trademarks/Registrar of Trademarks ('Trademark Office') (WP(C)-IPD 4/2022 & CM 27/2022; WP(C)-IPD 88/2021 & CM 31/2021; WP(C)-IPD 103/2021; WP(C) 1907/2022, CM APPLs 5485/2022, 11118/2022 & 12729/2022) and [directed](#) the Trademark Office to accept oppositions pursuant to the Supreme Court's directions to extend deadlines during the pandemic.

Background

Despite the effect of the pandemic and the Supreme Court's directions to extend deadlines, the Trademark Office had not allowed the petitioners to file oppositions, applying the usual deadline of four months from the date of publication. The Supreme Court's decisions stated the following, among other things:

- The period between 15 March 2020 and 28 February 2022 shall be excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

- In cases where the limitation would have expired during the period between 15 March 2020 and 28 February 2022, despite the actual balance period of limitation remaining, all parties shall have a limitation period of 90 days from 1 March 2022. In the event that the actual balance period of limitation remaining with effect from 1 March 2022 is greater than 90 days, that longer period shall apply.

Arguments

The petitioners stated that the Trademark Office had acted in an arbitrary manner, since only a few opponents benefited from the Supreme Court's decisions. Further, registration certificates were also issued, jeopardising the rights of opponents whose oppositions were not taken on record.

Decision

The Delhi High Court expressed displeasure at the Trademark Office's conduct, especially for concealing the selective acceptance of oppositions during the pandemic.

The court held as follows:

- The benefit of the Supreme Court's decisions to extend deadlines also applied to oppositions, and the Trademark Office should have accepted such oppositions through the physical filing process.
- Until decisions are taken on the oppositions, such registrations will be suspended.
- As long as the window for filing oppositions under the extended deadlines has not elapsed, no registration is to be issued for such published marks. Registrations for which no opposition has been received shall remain valid.
- Heavy costs are to be imposed on the Trademark Office officers who concealed information.

The court also took note of the huge backlog of oppositions at the Trademark Office and directed the latter to submit a mechanism proposal to reduce such backlog.

The matter was kept part-heard to ensure that the Trademark Office complies with the directions.

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